HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19126 OF 2006

DATED: 15.9.2006

Between:

Konduru Venkateswarlu

… Petitioner

and

Sri Mitta Papaiah Choultry, Proddatur and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.19126 OF 2006

ORAL ORDER:

The petitioner, by the order dated 22.8.2005 of the 2nd respondent, was declared an encroacher on the non-agricultural immovable property of Sri Mitta Papaiah Choultry, an Endowment institution, ex parte. The determination was made ex parte as despite issuance by the 2nd respondent and receipt by petitioner of a show cause notice, the petitioner failed to appear at the hearing under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). Aggrieved thereby, the petitioner preferred a revision to the 3rd respondent. The 3rd respondent is stated to have returned the revision to be presented to the Regional Joint Commissioner, Endowments, Tirupathi to whom the 3rd respondent had delegated his powers under Section 92 of the Act.

As at the time of presentation of the petitioner's revision afresh to the Regional Joint Commissioner, Tirupathi (after return of his revision by the 3rd respondent), the incumbent of the office of the

Regional Joint Commissioner, Tirupathi was the very same officer who had passed the order No.83 dated 22.8.2005, determining the petitioner an encroacher and directing his eviction.

The petitioner submitted an application under Section 92 of the Act to the 3rd respondent stating that the Dy. Commissioner of Endowments, Kurnool, who had passed the order impugned was himself the acting Regional Joint Commissioner of Tirupathi and was thus disqualified to hear the petitioner's revision and therefore the 3rd respondent be pleased to entertain the revision himself and pass appropriate orders including interim orders as sought by the petitioner. The grievance is that the above application, dated 12.9.2006 has not been disposed of by the 3rd respondent.

Learned counsel for the petitioner seeks interdiction by this court of the order of petitioner's eviction passed by the 2nd respondent on 22.8.2005. As the petitioner has availed a statutory revisional remedy, this court is not inclined to entertain this request.

In the circumstances above, the writ petition is disposed of directing the 3rd respondent to himself determine the revision of the petitioner, directed against the order of the 2nd respondent dated 22.8.2005, or refer the same to any other Regional Joint Commissioner on a special delegation of powers of revision, in view of the fact that the person who passed the order dated 22.8.2005 as the Dy. Commissioner, Endowments, Kurnool is in-charge of the post of Regional Joint Commissioner, Endowments, Tirupathi. Either the 3rd respondent or the authority to whom the revision of the petitioner may

be referred, shall expeditiously consider and dispose of the petitioner's revision in accordance with law. If the petitioner is a lawful tenant of the premises in question in accordance with the provisions of the Act and the relevant statutory Rules thereunder and a formal lease has been entertained into following due procedure, the authority may consider grant of relief.

The writ petition is disposed of as above. There shall be no order as to costs.

GODA
RAGHURAM, J

Date: 15.9.2006
Note: CC by Monday
Bo cvm